

KATZ BANKS KUMIN

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By Electronic Case Filing
April 30, 2024

Honorable Sarah L. Cave
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

RE: Charlotte Bennett v. Andrew M. Cuomo et al., 22-cv-07846 (VSB) (SLC)

Dear Judge Cave:

We represent Plaintiff Charlotte Bennett (“Plaintiff”) in the above-captioned matter. We write in reply to Defendant Cuomo’s and Defendant DeRosa’s letters opposing our request for a discovery conference. *See* ECF Nos. 242, 246, 248, 249, 251. Plaintiff has agreed to perform an extensive second production and to re-image her cellphones which goes above and beyond her discovery obligations under the Federal Rules. Yet, Defendants insist on serving twenty non-party subpoenas now, rather than waiting until they receive the balance of Ms. Bennett’s discovery which undoubtedly would produce the same records. Their insistence in proceeding in this manner must be seen for what it is – an effort to intimidate Plaintiff by embroiling her family and friends in invasive discovery. Furthermore, Defendants repeatedly abuse this Court’s letter motion process by quoting from and including as exhibits documents from Plaintiff’s production with the explicit intention to embarrass and denigrate Plaintiff – in other words, to litigate their case in the public and press now. Defendants’ letters do not support their argument that there is any justifiable need for further discovery from any of the non-parties they seek to subpoena. Indeed, Defendants quote from Plaintiff’s previous document productions of communications with the non-parties demonstrating that they already have the documents they now claim to seek from non-parties.

In addition, Defendants failed to respond to Plaintiff’s argument that the non-party subpoenas are overly broad in that they lack time limitations. Indeed, as drafted, they request a broader range of documents in time and scope than the requests issued to Plaintiff, from whom the broadest instructions sought documents from September 1, 2018, to the present. Plaintiff requests that, at the very least, the Court limit Defendants’ subpoenas to the same timeframe.

Defendants also failed to respond to Plaintiff’s argument that the requests themselves are plainly overbroad, for example seeking “All Communications between You and Bennett concerning her sexual assault advocacy” (again, with no time limitation). It appears that Defendants’ underlying reason for seeking such documents is to bolster a nonsensical argument that if Plaintiff has advocated against sexual assault prior to working for Cuomo, she must be somehow biased against his rampant and repeated sexual harassment. Beyond being woefully illogical, this argument, much like Defendants’ available defenses, is not based in legal theory.

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Defendants' non-party subpoenas are unduly burdensome, overly broad, not proportional to the needs of the case and wastefully duplicative. They will run up legal fees for non-parties and burden these witnesses. Plaintiff respectfully requests that the Court grant her request for a conference to address deferring and/or limiting Defendants' **twenty** recent non-party subpoenas. We thank the Court for its time and consideration.

Dated: April 30, 2024

Respectfully submitted,

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